

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO. 23-60196-CR-DIMITROULEAS

Plaintiff,

vs.

ROBET ZILDJIAN MONDRAGON,

Defendant.

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**SPECIFIC FINDINGS OF FACT**

THE COURT heard arguments on April 4, 2024 in a non-jury trial. Pursuant to Rule 23(c) F. R..Cr.. Proc. , the Court makes its specific findings of fact.

1. On June 18, 2019, Defendant stated in ATF Form 4473 that he was not an unlawful user of marijuana. He made the false statement in connection with the attempted purchase of a Radical Arms firearm in Miami with intent to deceive the license firearm dealer (Glatza Militura) and that false statement was material to the lawfulness of the sale. That Form 4473 had in bold print a warning that it remains a federal violation and unlawful even if marijuana had been decriminalized for medical purposes. [Ex:3]. Prior to that attempted purchase, Defendant has established a pattern of unlawful marijuana use.
2. In June, 2014, Defendant tested positive for marijuana and admitted to using it daily. In August, 2014 Defendant reported that he craved marijuana. In April, 2016, Defendant again tested positive for marijuana, and the hospital staff's diagnosis was Cannabis Use Disorder. Mondragon's phone instant message conversations indicate Defendant's almost constant obsession with weed:

On January 4, 2019, January 6, 2019, January 17, 2019; February 9, 2019  
February 10, 2019, February 16, 2019, February 19, 2019,  
February 21, 2019; March 3, 2019, March 7, 2019, March 11, 2019,  
March 15, 2019, March 20, 2019, March 28, 2019; April 4, 2019,  
April 25, 2019; May 3, 2019, May 8, 2019, May 9, 2019, May 11, 2019;  
May 26, 2019, June 11, 2019, June 15, 2019 and June 17, 2019.

On June 8, 2019, after attempting suicide, he tested positive for marijuana. [Ex: 2]. He had last admittedly used marijuana on June 7, 2019. He reported using 100 mg per week [Ex: 1] on a continuous basis. This pattern of use, on occasions daily, causing a craving for marijuana and a medical diagnosis of Cannabis Use Disorder satisfy the Court, beyond a reasonable doubt, that he was an unlawful user of marijuana on June 18, 2019, and knowingly made a false statement with respect to information required to be kept by Glatza Militum in an effort to obtain a firearm. Defendant's marijuana use abuse continued when on November 23, 2018, Walmart terminated Defendant for violating their drug use policy. [Ex: 6].

3. On November 14, 2021 photographs were taken of the defendant at a residence in Pembroke Pines. [Ex: 4,5]. The photos depicted him holding a firearm, as defined under the US Code.
4. Between June 18, 2019 when he lied on the ATF Form and the end of the year there were references and multiple references to weed on his celebrite phone report on twenty-one days:

July 1, 2019, July 3, 2019, July 8, 2019, July 10, 2019, July 13, 2019,


July 14, 2019, July 26, 2019, July 27, 2019, August 1, 2019, August 4, 2019, August 12, 2019, August 27, 2019, September 8, 2019, September 11, 2019, September 12, 2019, September 19, 2019, September 27, 2019, October 3, 2019, November 14, 2019, November 16, 2019 and November 24, 2019.

5. In the year before the November 14, 2021 photographs there were references and multiple references to weed in his phone on seventy-one (71) days: November 27, 2020, December 6, 2020, December 10, 2020, December 11, 2020, December 23, 2020, January 11, 2021, January 16, 2021, January 18, 2021, January 20, 2021, January 27, 2021, February 5, 2021, February 6, 2021, February 9, 2021, February 10, 2021, February 11, 2021, February 14, 2021, March 2, 2021, March 4, 2021, March 5, 2021, March 8, 2021, March 9, 2021, March 13, 2021, March 17, 2021, March 18, 2021, March 22, 2021, March 29, 2021, April 9, 2021, April 12, 2021, April 27, 2021, May 3, 2021, May 11, 2021, May 20, 2021, May 31, 2021, June 7, 2021, June 9, 2021, June 30, 2021, July 1, 2021, July 3, 2021, July 4, 2021, July 14, 2021, July 16, 2021, July 21, 2021, July 26, 2021, July 27, 2021, August 4, 2021, August 10, 2021, August 22, 2021, August 25, 2021, August 31, 2021, September 1, 2021, September 5, 2021, September 10, 2021, September 15, 2021, September 17, 2021, September 20, 2021, September 23, 2021, September 24, 2021, September 25, 2021, September 26, 2021, September 29, 2021, October 3, 2021, October 8, 2021, October 9, 2021, October 13, 2021, October 14, 2021, October 15, 2021, October 19, 2021, October 26, 2021, October 27, 2021, November 3, 2021 and November 8, 2021. On November 8, 2021, Mondragon said “oh im high as hell”. The day after

the picture, Mondragon said he couldn't wait until 3:00 for vinny to get the senior discount for weed.

6. Here, there is sufficient circumstantial evidence to show that Mondragon's use of marijuana was ongoing and contemporaneous on both June 18, 2019 and November 14, 2021. *See U.S. v. Hicks*, 2023 WL 8015693\*5 (11<sup>th</sup> Cir. 2023).
7. The Court finds no due process violation.
8. Mondragon has not established that no set of circumstances exists under which the act would be violated. He has not satisfied the heavy burden of showing that the act is facially unconstitutional. *U.S. v. Salerno* 481 U.S. 739, 745 (1987). His applied challenge fails as the Court finds that Mondragon was an unlawful use of marijuana contemporaneously on both dates: June 18, 2019 and November 14, 2021. *See U.S. v. Antonoff*, 424 Fed. Appx. 846, 848 (11<sup>th</sup> Cir. 2011). The Court agrees with Judge Steel in rejecting the rationale of *U.S. v. Morales-Lopez*, 2022 WL 2355920 (D. UT 2022). *See, U.S. v. Lewis*, 2023 WL 4604563 \*3 (S.D. Ala 2023).
9. A separate verdict will be entered.
10. Sentencing is set for July 3, 2024 at 1:15 PM. A Presentence Investigation Report is ordered.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this  
9th day of April, 2024.

  
WILLIAM P. DIMITROULEAS  
United States District Judge

Copies furnished to:

Counsel of Record